

News Release

Senator Pete V. Domenici

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DOMENICI: CONFERENCE AGREEMENT PROHIBITS N.M. BONDING REQUIREMENT ON WIPP

Provision Unequivocally Protects WIPP Impact Funding

WASHINGTON -- Senator Pete Domenici today confirmed that Senate and House negotiators have finalized work on a bill that includes his legislative provision blocking the state of New Mexico from demanding a financial assurance bond on the Waste Isolation Pilot Plant.

Domenici, a Senate Appropriations Committee member who worked closely with the Senate and House leadership and conference committee to reach the agreement, said his WIPP provision was included in an emergency supplemental package hammered out today and included as part of the FY 2001 Military Construction Appropriations Bill. The bill, including the supplemental package, must be approved by the full House and Senate before it can be sent to the president for his signature.

The Domenici measure would also allow the Department of Energy (DOE) to free the \$20 million in federal impact assistance money that has been tied up to meet the New Mexico Environment Department's bonding requirement.

"With the approval of this WIPP provision today, it is my hope that the state and DOE can move beyond the contentious disagreements that have resulted in a halting of road construction projects across the state," Domenici said. "Under this provision, we make it unequivocally clear that no bonding requirement exists, and that DOE is free to release the state's impact aid."

The Domenici amendment would specifically stop the New Mexico Environment Department's past, or future, efforts to require a bond from the DOE for the eventual closing of WIPP. Eliminating the bonding requirement should free the DOE to release the federal impact aid funds on which New Mexico is relying to improve roadways on the routes to WIPP.

"As I have pointed out before, the full faith and credit of the federal government stands behind the eventual closure of WIPP. In fact, that requirement is explicitly spelled out in the law that created WIPP. There is simply no need for the state to require a bond to close the facility," Domenici said.

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The Domenici amendment specifically prohibits New Mexico or any other entity from imposing bonding requirements on WIPP. The amendment is written so as to make it absolutely clear to New Mexico state officials that this includes the existing requirements placed on WIPP.

Last October, the New Mexico Environment Department issued a hazardous waste permit to allow WIPP to begin receiving shipments of transuranic waste that also contain chemicals. The permit required WIPP operators to obtain “financial assurance” bonds to cover the costs of eventually closing the repository near Carlsbad. To meet that bonding requirement, DOE is using the \$20 million in impact assistance given annually to New Mexico for hosting WIPP.

Since 1996, New Mexico has received \$20 million annually in impact assistance for WIPP-related preparations, including bypass and highway construction and emergency preparedness activities. The federal government’s responsibilities on WIPP operations, maintenance, and closure are outlined in the 1992 WIPP Land Withdrawal Act.

The following is the legislative text of the Domenici amendment approved by the conference committee:

“Sec.3104. Funds appropriated in this or any other Act and hereafter may not be used to pay on behalf of the United States or a contractor or subcontractor of the United States for posting a bond or fulfilling any other financial responsibility requirement relating to closure or post-closure care and monitoring of the Waste Isolation Pilot Plant. The State of New Mexico or any other entity may not enforce against the United States or contractor or subcontractor of the United States, in this or any subsequent fiscal year, a requirement to post bond or any other financial responsibility requirement relating to closure or post-closure care and monitoring of the Waste Isolation Pilot Plant. Any financial responsibility requirement in a permit or license for the Waste Isolation Pilot Plant on the date of enactment of this section may not be enforced against the United States or its contractors or subcontractors at the Plant.”